

After Recording Return To:
Richards Kimble & Winn, P.C.
2040 E. Murray-Holladay Rd., Suite 106
Salt Lake City, UT 84117

**FIRST AMENDMENT TO THE
AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS
OF
CAPRI PARK HOME OWNERS ASSOCIATION
AN AGE RESTRICTED COMMUNITY**

This first amendment to the Amended and Restated Declaration of Covenants, Conditions and Restrictions (“**Declaration**”) that governs the condominium development known as Capri Park Homes is made on the date evidenced below by the Capri Park Home Owners Association, Inc., a Utah nonprofit corporation (hereinafter “**Association**”).

RECITALS

A. Certain real property in Salt Lake County, Utah, known as Capri Park Homes was subjected to certain covenants, conditions and restrictions pursuant to an original declaration dated on or about July 29, 1974, and recorded as Entry No. 2639289 in the Recorder’s Office for Salt Lake County, Utah;

B. The original declaration was amended and restated in its entirety pursuant to the Declaration recoded on January 5, 2009, as Entry No. 10591270 in the Recorder’s office for Salt Lake County, Utah;

C. Pursuant to the Declaration and other documents governing, the Association is the authorized representative of the Owners of certain real property known collectively as Capri Park Homes;

D. Except as otherwise provided herein or as may be required by the context, all terms defined in the Declaration shall have such defined meanings when used in this First Amendment to the Amended and Restated Declaration of Covenants, Conditions and Restrictions of Capri Park Home Owners Association (“**First Amendment**”);

E. This First Amendment shall be binding against the property described in the Declaration and as contained in **Exhibit 1** attached hereto;

F. To avoid the financial hardships that occur when the Association is compelled into litigation due to an Owners failure to comply with the provisions of the governing documents of the Association, including the Declaration and Bylaws and any amendments

thereto, or due to unavailing actions initiated by Owners against the Association that tax the limits of and burden the financial resources of the Association, the Association deems adopting mandatory alternative dispute resolution procedures as both necessary and in the best interest of all Owners within the Association;

G. Pursuant to Article XIII, Section 13.1 of the Declaration, the Management Committee hereby certifies that the votes representing at least two-thirds (2/3) of the total votes of the Association affirmatively approved this First Amendment.

NOW, THEREFORE, for the benefit of the Association and all Owners thereof, the Management Committee hereby executes this First Amendment for the Association, for and on behalf of all Owners, to add and include in Article III, a new Section 3.6 of the Declaration. All of the terms and representations in the above Recitals are made a part of this First Amendment and are incorporated herein by reference.

Article III, Section 3.6. Mandatory Alternative Dispute Resolution.

(a) Notwithstanding anything in this Declaration to the contrary, the Management Committee may exercise any of the rights and powers set forth in Article III, Section 3.2 (a), (c), (d) and (e) above without being bound by this Section 3.6. Moreover, additional exemptions from the application of this Section 3.6 may be contained within this Section, as expressly set forth herein.

(1) The Association, the Board of Trustees, and Members of the Association hereby agree and are bound to this provision not to file suit in any court with respect to a Claim, as defined and described in Section 3.6(a)(2) below, unless and until it has first submitted such Claim to the alternative dispute resolution procedures set forth herein, in a good faith effort to resolve such claim.

(2) As used in this Section, the term "Claim" **shall** refer to any claim, grievance, or dispute arising out of or related to:

- (i) the interpretation, application, or enforcement of the Project Documents;
- (ii) the rights, obligations, and duties of anyone arising from the Association's Declaration or Bylaws;
- (iii) the design or construction of improvements within the Association;

(3) The following **shall not** be considered "Claims" unless all parties to the matter otherwise agree to submit the matter to the procedures set forth in subsections (b) below:

- (i) any suit by the Association to collect assessments or other amounts due from any Owner;

(ii) any suit by the Association to obtain a temporary restraining order (or emergency equitable relief) and such ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions of this Declaration;

(iii) any suit between Owners, which does not include the Association as a party, if such suit asserts a Claim that would constitute a cause of action independent of the Association's Declaration or Bylaws;

(iv) any suit in which any indispensable party is not bound hereby;

(v) any suit as to which any applicable statute of limitations would expire within one hundred and eighty (180) days of giving the Notice required in Section 2(a), unless the party or parties against whom the Claim is made agree to toll the statute of limitations as to such Claim for such period as may reasonably be necessary to comply with this Article;

(vi) any enforcement action permitted pursuant to Article 5, Section 5.1 and Article 6, Section 6.9 of the Declaration;

(vii) the right of the Association to levy reasonable fines pursuant to Article III, Section 3.2(c) and Utah Code Ann. §57-8-37.

(b) **Mandatory Dispute Resolution.**

(1) **Notice.** A person or entity asserting a Claim ("**Claimant**") against another person or entity subject to this Section 3.6 ("**Respondent**") shall give written notice ("**Notice of Dispute**") to each Respondent and/or to the Management Committee stating clearly and concisely:

(i) the nature of the Claim, including the persons or entities involved and the Respondent's role in the Claim;

(ii) the legal basis of the Claim (i.e., the specific authority out of which the Claim arises);

(iii) the Claimant's proposed resolution or remedy; and

(iv) the Claimant's desire to meet with the Respondent, to discuss in good faith, ways to resolve the Claim.

(2) **Negotiation.** The Claimant(s) and Respondent(s) shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice of Dispute, the

Management Committee may appoint a representative to assist the parties in negotiating a resolution of the Claim.

(3) Mediation. If the dispute is not resolved within ninety (90) days after the Respondent receives a Notice of Dispute, the parties agree to submit the dispute to mediation by delivering a request for mediation ("Mediation Notice") in the same manner as allowed for delivery of the Notice of Dispute. Any such dispute shall be submitted to mediation according to regulations prescribed by resolution of the Association's Management Committee. In the absence of any such regulations, mediation shall proceed pursuant to the Commercial Mediation Procedures of the American Arbitration Association ("AAA"), although such mediation need not proceed with the AAA. If the parties are not successful in resolving the dispute through the mediation process, then the parties are free to bring suit or action in any court of competent jurisdiction.

IN WITNESS WHEREOF, CAPRI PARK HOME OWNERS ASSOCIATION, INC. has executed this First Amendment to the Declaration as of the 8 day of September, 2010.

CAPRI PARK HOME OWNERS ASSOCIATION, INC.

Jerry M. Matheson
President
Gail Galarneau
Secretary

STATE OF UTAH)
 :SS
County of Salt Lake)

On the 8 day of September, 2010, personally appeared before me Jerry M. Matheson and Gail Galarneau who, being first duly sworn, did that say that they are the President and Secretary of the Capri Park Home Owners Association, Inc. and that the foregoing instrument was signed in behalf of said Association by authority of its Management Committee; and each of them acknowledged said instrument to be their voluntary act and deed.

S. Olsen
Notary Public for Utah

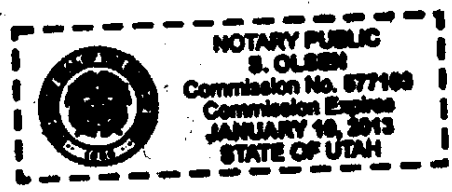
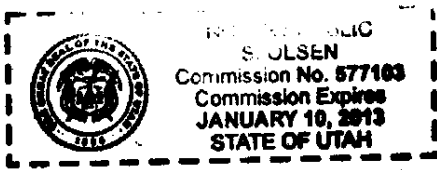


EXHIBIT 1

Capri Park Homes
AN AGE RESTRICTED COMMUNITY

LEGAL DESCRIPTION

The land described in the foregoing document is located in Salt Lake County, State of Utah and is described more particularly as follows:

Beginning at the Northeast Corner of Lot 14, Block 20, Ten Acre, Plat A, Big Field Survey and running thence S 0° 11' 03" W 57.57 feet; thence S 89° 58' 47" W 300.00 feet; thence S 0° 11' 03" W 805.86 feet; thence N 89° 59' 45" W 464.90 feet; thence N 0° 11' 21" E 575.48 feet; thence S 89° 59' 13" W 305.94 feet; thence N 0° 11' 29" E 287.69 feet; thence N 89° 58' 42" E 305.93 feet; thence N 0° 11' 21" E 282.75 feet; thence N 89° 58' 10" E 562.92 feet; thence S 0° 11' 12" W 167.79 feet; thence N 89° 58' 30" E 19.52 feet; thence S 0° 11' 07" 47.11 feet; thence N 89° 58' 36" E 5.31 feet; thence S 0° 11' 12" W 65.53 feet; thence N 89° 58' 50" E 177.00 feet; thence S 0° 11' 03" W 2.43 feet to the point of beginning.